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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA,
SAN FRANCISCO DIVISION**

**IN RE GOOGLE PLAY STORE
ANTITRUST LITIGATION**

This Document Relates To:

Epic Games, Inc. v. Google LLC et al., Case No. 3:20-cv-05671-JD

In re Google Play Consumer Antitrust Litigation, Case No. 3:20-cv-05761-JD

State of Utah et al. v. Google LLC et al., Case No. 3:21-cv-05227-JD

Match Group, LLC et al. v. Google LLC et al.,
Case No. 3:22-cv-02746-JD

Case No. 3:21-md-02981-JD

**DECLARATION OF GREGORY
JOHNSON IN SUPPORT OF
DEFENDANTS' BRIEF IN
RESPONSE TO THE COURT'S
QUESTIONS REGARDING
PRESERVATION OF CHAT
MESSAGES**

Judge: Hon. James Donato

DECLARATION OF GREGORY JOHNSON

I, Gregory Johnson, declare as follows:

3 1. I am a Legal Specialists Manager at Google, and have been a Legal Specialist at
4 Google since 2012. My responsibilities as a Legal Specialist include working with in-house
5 counsel, outside counsel, members of the Google Discovery team, and business and product teams
6 across various litigation matters to conduct fact-finding investigations, gather information, identify
7 documents and data to preserve and/or collect in response to litigation discovery. I make this
8 declaration based on personal knowledge. If called as a witness, I could testify competently to the
9 facts stated herein.

Legal Hold Notices & Instructions About Google Chat Preservation

11 2. I am familiar with the process for creating and circulating legal hold notices at
12 Google, and I am personally responsible for implementing the legal hold notices and reminders to
13 Google employees in this case. I am familiar with Google's practices with regard to preservation
14 obligations and document collection.

15 3. As a matter of process, Google has a template legal hold notice that it uses for some
16 of its litigation matters. Typically, when a case is filed, Google litigation counsel, usually working
17 with outside counsel, revises the template to include background information about the case, as
18 well as the topics that are covered by the legal hold notice. After that, a Legal Specialist, such as
19 myself, will incorporate the case background information and covered topics drafted by counsel
20 into an internal discovery operations tracking system and utilize this system to apply the legal hold
21 and send the legal hold notice, resulting in an email to the list of individuals that counsel has
22 identified to receive the legal hold notice.

23 4. That is what happened in this case. A silent “back end” hold was implemented in
24 the system for an initial set of employees on September 3, 2020, automatically preserving their
25 documents including history-on chats. Then, after the content of the initial hold notice was
26 finalized by litigation counsel, I entered counsel’s case background information and covered
27 topics into the discovery operations tracking system which disseminated it to recipients identified
28 for legal hold at the time on September 11, 2020. As the case progressed, and counsel identified

1 new individuals that may have information relevant to the claims, I would apply the legal hold and
2 send the legal hold notice through the discovery operations tracking system to those new
3 individuals. Subsequently, I also received updated legal hold notice language from counsel that
4 reflected additional parties and legal theories and was responsible for sending those updated legal
5 hold notices to all legal hold custodians. As of now, Google has placed 383 employees on legal
6 hold for this matter.

7 5. In addition to sending numerous amended legal hold notices over time, I also sent
8 repeated emails to a list of Google employees in this matter, at the instruction of counsel,
9 reminding them that they are on legal hold. In almost every such reminder, we emphasized that
10 Google has an obligation to preserve chat messages for this case, or specifically reminded
11 employees that to the extent they use chats, they should take steps, such as turning “history on,” to
12 preserve them.

13 6. On at least one occasion in July 2021, consistent with the testimony of our
14 Information Governance Lead (Genaro Lopez) at the evidentiary hearing—an excerpt of which
15 was provided to me by counsel for review—I reminded legal hold notice recipients by email that
16 they should avoid Chat for any topic covered by the legal hold. I also told them, consistent with
17 Mr. Lopez’s testimony, that if they needed to use Google Chat to talk about topics covered by the
18 litigation hold, then they needed to turn history on to make sure their communications would be
19 preserved.

Preservation Approach for Past Five Years

21 || 7. I understand that the Court has asked the following question:

“In any case filed in the United States in the past five years, did Google preserve all Google Chats for relevant individuals (with Google turning the history to “on” for all of those individuals’ Google Chats, rather than leaving the preservation decision to the discretion of each individual employee?”

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25 8. I have been a Litigation Paralegal at Google for over 10 years and have participated
26 in hundreds of litigation matters while in this position, and my understanding is that Google has, at
27 least for the past five years, maintained the same approach to preserving Google Chats for legal
28 hold recipients in all of its cases. That general approach is that Google preserves (a) automatically

1 (no user action required) the threads in which a legal hold recipient participates in threaded
2 rooms/spaces, and (b) any unthreaded chats (either one-on-one or among a group) in which a
3 participant turned history on.

4 9. I have taken a number of steps to confirm this. First, over the course of my more
5 than 10 years as a Litigation Paralegal at Google, I have never been involved in a case in which
6 Google automatically preserved all chats, without individual user action, beyond those in threaded
7 room/spaces. Second, I have surveyed the team of Google paralegals that handle all U.S. litigation
8 matters at Google, and to the best of my understanding, none is aware of any case in which
9 Google automatically preserved all chats automatically beyond threaded rooms/spaces. I spoke
10 with almost all members of that group, and they confirmed that Google's practice in all their cases
11 is to instruct legal hold recipients to not use Google Chat for topics covered by the legal hold, and
12 if necessary to turn history on for any such chat (which would not be necessary if all their Google
13 Chats were being automatically preserved). Finally, I have confirmed with our Information
14 Governance Lead, Genaro Lopez, who confirmed he is not aware of any instance in which the
15 legal team has asked his team to force "history on" for all Google Chats for legal hold recipients.

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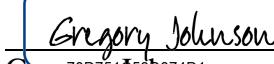
17 I declare under penalty of perjury under the laws of the United States that the foregoing is
18 true and correct.

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20 Executed on this 24th day of January, 2023, in San Francisco, California.

21

DocuSigned by:


Gregory Johnson
7097516518740

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